

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BEVERLY HERTZOFF, EDWIN HERTZOFF, and
CLAYTON HERTZOFF,

Plaintiffs, 07-CV-3157 (CM)

v.

NOREEN DIAZ and UNITED ORTHOPAEDIC
APPLIANCES, CO.,

Defendants.

DECLARATION OF RONALD MANGANIELLO

1. I am the Managing Partner of New England Orthotic and Prosthetic Systems, LLC. I have been advised that Mr. Hertzoff's previous employer, United Orthopaedic Appliances Co., Inc. ("UOA"), is engaged in litigation with Mr. Hertzoff, and submit this affidavit to place before the Court certain facts relevant to that litigation.

2. On June 18, 2007 we hired Clayton Hertzoff to act as a Certified Practitioner. In that work, Mr. Hertzoff visits hospitals and clinics to gain referrals from the doctors operating at those facilities.

3. To the best of my knowledge, Mr. Hertzoff has not disclosed to New England Orthotic and Prosthetic Systems any UOA confidential client lists, referral sources, financial statements, business plans, internal memoranda, reports, audits, patient surveys, employee surveys, operating policies, quality assurance materials, fees, or billing records.

4. The hospitals and clinics visited by Mr. Hertzoff were well known to us prior to his employment, and New England Orthotic and Prosthetic Systems has been attending some of these facilities for many years.

5. Our clients also do not derive from confidential sources. As is usual in the industry, hospitals and clinics solicit numerous providers to come to their facilities and obtain referrals from the doctors. Often, the doctors will simply make an informal rotation of assignments to all the Certified Practitioners present.

6. The services of Certified Practitioners such as Clayton Hertzoff, while valuable, are not "unique" "extraordinary" or difficult to obtain. New England Orthotic and Prosthetic Systems receives countless resumes from Certified Practitioners offering their services to us. Should it so desire, UOA can hire a Certified Practitioner to replace the services of Mr. Hertzoff.

7. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 20, 2007


Ronald Manganiello